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IN THE

# Supreme Court of the United States

OCTOBER TERM, 1930.

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No. 618.

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THE UNITED STATES OF AMERICA EX RELATIONE ETHEL M. MCLENNAN, *Petitioner,*

*vs.*

RAY LYMAN WILBUR, SECRETARY OF THE INTERIOR, *Respondent.*

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## MOTION FOR LEAVE TO FILE BRIEF AS AMICUS CURIAE.

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MAY IT PLEASE THE COURT:

The undersigned as counsel for the State of New Mexico, respectfully moves this Honorable Court for leave to file the accompanying brief in this case as amicus curiae.

E. K. NEUMANN,
*Attorney General of the State of New Mexico, as amicus curiae.*

*Of Counsel:*
PETER Q. NYCE,

IN THE

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1930.

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No. 618.

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THE UNITED STATES OF AMERICA EX RELATIONE ETHEL M. McLENNAN, *Petitioner,*

*vs.*

RAY LYMAN WILBUR, SECRETARY OF THE INTERIOR, *Respondent.*

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# BRIEF OF THE ATTORNEY GENERAL OF NEW MEXICO AS AMICUS CURIAE.

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## I.

## PRELIMINARY STATEMENT.

Pursuant to Section 35 of the Leasing Act, New Mexico is to receive 37½ per centum of the royalties accruing to the government from production of oil and gas on public lands within the State. Such money in accordance with the Leasing Act is to be used for the construction and maintenance of public roads, the support of public schools or other public educational institutions as the legislature of the State might direct.

The New Mexico legislature, in 1929, passed the following law, directing the disposition of these royalties:

> "Section 1. For the 18th and 19th fiscal years of the State of New Mexico, there is hereby appropriated for the New Mexico School of Mines from the Mineral Leasing Land Act Fund, created by Section 35, of Senate Bill No. 2775, (Public No. 146—66th Congress) the sum of Fifteen Thousand Dollars ($15,000.00), for each of said fiscal years. Any unappropriated balance in the Mineral Leasing Land Act Fund shall be turned into the fund for General State purposes.
>
> "Sec. 2. The same appropriation as made in Section 1, of this Act for the 18th and 19th fiscal years, is hereby declared to apply and be continued to, and in every fiscal year subsequent to the 19th fiscal year, unless any Legislature, subsequent to the one at which this Act is passed shall provide otherwise." (Chap. 134, New Mexico Session Laws of 1929.)
>
> "* * * Any balance in the Mineral Leasing Land Act Fund and revenues accruing to such fund not otherwise specifically appropriated shall be distributed among the state educational institutions in proportion to the several appropriations made herein for such institutions and shall apply on such appropriations." (Sec. 7, Chap. 8, Special Session Laws of New Mexico, 1929.)

Under the terms of Section 35 of the Leasing Act, New Mexico has received, since the passage of the Act of February 25, 1920, up to June 30, 1930, royalties on account of oil and gas amounting to $63,845.37. There has been received by the Government during the same period on account of oil and gas from lands situated in New Mexico, a total of $170,-

of this court, the State of Wyoming says that the Court of Appeals has decided a question of general importance relating to the construction of the Leasing Act of February 25, 1920, which has not been, but should be, settled by this court.

## CONCLUSION.

The great interest of the State of Wyoming as hereinabove set forth compels the state to adopt the brief filed by petitioner in this case and ask this Court to grant the petition for writ of certiorari to review the decision of the Court of Appeals of the District of Columbia, which decision was rendered by two of the three judges of said Court, the third judge having rendered a dissenting opinion. The majority decision of the Court of Appeals reversed the decision of two of the justices of the Supreme Court of the District of Columbia directing a writ of mandamus to issue against Respondent. It is respectfully urged that the decision of the Court of Appeals be reversed by this Honorable Court and that said Court will direct proceedings looking to the issuance of a writ of mandamus to compel Respondent to receive and file Petitioner's application for permit, consider same on its merits and grant a permit thereon in accordance with the Leasing Act of February 25, 1920.

Respectfully submitted,

J. A. GREENWOOD,
*Attorney General of the State of Wyoming, as amicus curiae.*

*Of Counsel:*
PETER Q. NYCE,
National Press Building,
Washington, D. C.

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FEB 25 1931

CHARLES ELMORE CROPLEY
CLERK

IN THE

# Supreme Court of the United States

OCTOBER TERM, 1930.

No. 619.

THE UNITED STATES OF AMERICA EX RELATIONE ETHEL M. MCLENNAN, *Petitioner*,

*vs.*

RAY LYMAN WILBUR, SECRETARY OF THE INTERIOR, *Respondent*.

MOTION OF the Attorney General of the State of New Mexico, for leave to file brief as amicus curiae, and brief of amicus curiae.